Leave Electoral College Intact

by John Samples

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The American Constitution empowers state legislatures to choose the means to select electors who in turn select the president. Some Americans have argued that this Electoral College should be eliminated in favor of direct election of the president by a majority of eligible voters. But evidence on the ground suggests little need for this major constitutional change.

Each state has electors equal to its representation in the U.S. House and the U.S. Senate. The Electoral College thus reflects representation both of populations and of states. Direct election would eliminate representation of the states.

Critics have long argued that the Electoral College gives too much power to states with the smallest populations. Their point is accurate, but greatly exaggerated. The populations of large states still give them great weight in selecting the president. No doubt smaller states would have less influence under direct election. The harm done to small states, however, need not translate into gains for states with larger populations. No doubt some large states would benefit. But in general, big states may lose influence. Why?

In the current system, the most influential state is the state that casts the electoral votes that put a candidate into the Oval Office. In 2000, that state was Florida. In 2004, Ohio. This is not terribly surprising; both have significant populations. Larger states have more electoral votes and thus are more likely, all things being equal, to cast the deciding vote.

Since the 1980s, several studies have confirmed this. In actual operation, the most influential states in selecting the president are likely to have large populations. State legislatures in large states have reasons to support the Electoral College.

 Aren't states solidly in the Democratic or Republican column ignored by presidential candidates? A recent study in the American Economic Review showed that about 40 percent of the states in the future would receive more attention from candidates under direct election; slightly less than 40 percent would receive less attention; and about 20 percent would receive the same.

Critics also say the Electoral College distorts democracy and majority rule. In theory, the framers of the Constitution are guilty as charged; the Electoral College is not direct majority rule. The status quo does not depart from the preferences of the entire electorate. Yale professor David Mayhew looked at presidential elections back to 1948 and found on average no difference in the Democratic Party's vote share in the general population and in the decisive state in the Electoral College.
In Defense of the Electoral College

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Critics have long derided the Electoral College as a dusty relic of a bygone era, an unnecessary institution that one day might undermine democracy by electing a minority president. That day has arrived, assuming Gov. Bush wins the Florida recount as seems likely.

The fact that Bush is poised to become president without a plurality of the vote contravenes neither the letter nor the spirit of the Constitution. The wording of our basic law is clear: The winner in the Electoral College takes office as president. But what of the spirit of our institutions? Are we not a democracy that honors the will of the people? The very question indicates a misunderstanding of our Constitution.

James Madison’s famous Federalist No. 10 makes clear that the Founders fashioned a republic, not a pure democracy. To be sure, they knew that the consent of the governed was the ultimate basis of government, but the Founders denied that such consent could be reduced to simple majority or plurality rule. In fact, nothing could be more alien to the spirit of American constitutionalism than equating democracy with the direct, unrefined will of the people.

Recall the ways our constitution puts limits on any unchecked power, including the arbitrary will of the people. Power at the national level is divided among the three branches, each reflecting a different constituency. Power is divided yet again between the national government and the states. Madison noted that these twofold divisions -- the separation of powers and federalism -- provided a “double security” for the rights of the people.

What about the democratic principle of one person, one vote? Isn’t that principle essential to our form of government? The Founders’ handiwork says otherwise. Neither the Senate, nor the Supreme Court, nor the president is elected on the basis of one person, one vote. That’s why a state like Montana, with 883,000 residents, gets the same number of Senators as California, with 33 million people. Consistency would require that if we abolish the Electoral College, we rid ourselves of the Senate as well. Are we ready to do that?

The filtering of the popular will through the Electoral College is an affirmation, rather than a betrayal, of the American republic. Doing away with the Electoral College would breach our fidelity to the spirit of the Constitution, a document expressly written to thwart the excesses of majoritarianism. Nonetheless, such fidelity will strike some as blind adherence to the past. For those skeptics, I would point out two other advantages the Electoral College offers.

First, we must keep in mind the likely effects of direct popular election of the president. We would probably see elections dominated by the most populous regions of the country or by several large metropolitan areas. In the 2000 election, for example, Vice President Gore could have put together a